United Nations A/58/219

General Assembly

Distr.: General
5 August 2003

Original: English

Fifty-eighth session
Item 119 (c) of the provisional agenda*
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Situation of human rights in Myanmar

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly, the interim report prepared by Paulo Sergio Pinheiro, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, in accordance with Commission resolution 2003/12 and Economic and Social Council decision 2003/__ (see E/2003/23 (part I), chap. I, sect. B, draft decision 2).

* A/58/150.

03-45983 (E) 080903

Interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar

Summary

The present report is based upon the findings of the Special Rapporteur's visit to Myanmar undertaken in March 2003 and information received by him up to 28 July 2003. The visit was curtailed by the Special Rapporteur when he discovered a functioning listening device in the room where he was conducting interviews with political prisoners.

During the visit, the Special Rapporteur noticed the lack of progress in the process of dialogue and detected some worrying signs of erosion of confidence between the Government and the National League for Democracy (NLD). Although he noted the urgency of addressing the evolving situation, the deadlock symptoms with regard to the dialogue and escalating political tensions contributed to setting the scene for the tragic events of the night of 30 May, followed by a significant deterioration of the human rights situation. On that day National League for Democracy members and supporters accompanying party General Secretary Daw Aung San Suu Kyi on her tour of Upper Myanmar were attacked by pro-Government protesters near Depayin (Sagaing Division). As a result, more than 100 NLD members and supporters, among them elected members of Parliament, monks and students, were arrested, killed, wounded and missing. Information from various sources received thus far by the Special Rapporteur seems to indicate an element of premeditation on the part of the protesters and part of a general pattern of growing harassment of National League for Democracy supporters, particularly during Daw Aung San Suu Kyi's countryside trips.

The Special Rapporteur has sent several communications to the Government expressing his grave concern about the alleged death, bodily harm, detention and disappearance of scores of individuals as a result of the 30 May events, and urging the immediate and unconditional release of all those detained in this connection, as well as all other political prisoners. Although the Government has announced some releases, the Special Rapporteur believes that over 100 persons are still missing or in detention in connection with those events. Among the remaining detentions are: Daw Aung San Suu Kyi, National League for Democracy Deputy Chairman U Tin Oo and other leaders of the party. A series of these new detentions took place against the backdrop of continuing arrests and imprisonment of National League for Democracy members and other political activists since the beginning of 2003.

Other recent negative human rights-related developments included the closure of most (and perhaps all) National League for Democracy offices, among them its headquarters in Yangon; increased surveillance of members and supporters of the party and other political organizations; tighter control of the press, with no free access to information, including news about the 30 May incident, and reportedly frequent summoning and threatening of former political prisoners by the military intelligence.

Overall, the 30 May-related developments have constituted a potentially terminal setback on the political front and for that matter for the human rights

situation in the country: it could be argued that all the progress that had been achieved since the process of dialogue began in 2000 has been undone in one stroke. The Government's present posture has led to the freezing of diverse possibilities for cooperation with concerned States and international institutions, which had been ready to cooperate with Myanmar in the normalization of political and economic life. Thereby, the Government has put at serious risk the process of addressing urgently the existing precarious humanitarian situation, with all potential ramifications for the exercise of all human rights.

The Special Rapporteur has requested a visit to Myanmar as soon as possible, with a view to assess the present situation first-hand. He did so with the full support of the Office of the United Nations High Commissioner for Human Rights. This request remains to be officially answered by the Government.

With regard to allegations of human rights violations in ethnic areas, the Special Rapporteur is of the view that the credibility of his findings depends on his ability to establish facts in an objective and impartial manner. Consequently, he followed a two-pronged approach to his investigations: (a) conducting research based on independent interviews of refugees from those areas in Thailand and (b) making an independent assessment inside Myanmar by visiting some of the affected areas with a view to corroborating the results of his research and establishing facts about the alleged violations. While (a) had been completed, (b) has not yet taken place. The research conducted in Thailand in October-November 2002 documented such human rights abuses as forced labour, arbitrary taxation and extortion, forced relocations, torture, rape and extrajudicial executions, committed in parts of the States of Shan, Kayin, Kayah and Mon in Myanmar. At the time of writing, a reply from the Government was still outstanding regarding the proposed modalities of an independent assessment of the Special Rapporteur in Shan State.

In view of the prevailing situation in Myanmar, the Special Rapporteur's conclusions and recommendations contained in his previous reports (E/CN.4/2003/41 and E/CN.4/2002/45) remain valid. He is convinced that, if the Government wishes to renew its commitment to the process of political transition, it must start by immediately and unconditionally releasing Daw Aung San Suu Kyi, together with others detained in connection with the 30 May incident, as well as all other remaining political prisoners. Those responsible for the 30 May violence must be held accountable. In his view, the continuation of the present stalemate is a serious obstacle to the improvement in human rights of all the people of Myanmar, and he would support a recommendation that the situation in the country be brought to the attention of other instances in the United Nations.

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I. Introduction

1. The mandate of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar was established by the Commission in its resolution 1992/58 of 3 March 1992 and extended most recently in resolution 2003/12 of 16 April 2003. In that resolution, the Commission requested the Special Rapporteur to report to the General Assembly at its fifty-eighth session and to the Commission at its sixtieth session. The present report is based upon the findings of the Special Rapporteur's visit to Myanmar undertaken in March 2003 and information received by him up to 28 July 2003.

II. Visit to Myanmar and related activities

2. The Special Rapporteur visited Myanmar from 19 to 24 March 2003, with a view to updating his assessment of the human rights situation and to pursue discussions with Myanmar authorities regarding his proposal to assess allegations of human rights violations in ethnic minority areas, in particular Shan State. Since this was to be a shorter mission than previous ones, he intended to work only in Yangon.

3. However, the visit had to be interrupted, owing to an incident involving the discovery by the Special Rapporteur of a functioning listening device placed under the table in the room where he was conducting interviews with political prisoners at Insein prison on 22 March. The incident constituted a breach of the standard operating procedures relating to the conduct of fact-finding missions by United Nations Special Rapporteurs. The Special Rapporteur protested strongly to the Government about the breach of confidentiality and non-interference with his proceedings contrary to the repeated assurances given to him by the Government and reiterated his modus operandi that all persons cooperating with him should be free from any form of intimidation, harassment or punishment before, during and after his missions. The Government presented its regrets and apologies and pledged to investigate the incident.

4. Activities during this short visit included meetings with the Secretary-1 of the State Peace and Development Council (SPDC), the Home Minister, the Labour Minister and the Deputy Foreign Minister. The Special Rapporteur also met with the General Secretary and members of the Central Executive Committee of NLD, the United Nations country team, the diplomatic community, international non-governmental organizations and recently released political prisoners and journalists. At Insein prison, he interviewed 10 prisoners (see annex I). Finally, he visited the mausoleum of former Secretary-General, U Thant.

5. On the way to and from Yangon, the Special Rapporteur had consultations with the Special Envoy of the Secretary-General for Myanmar. He completed his mission with briefings in Bangkok for representatives of the diplomatic community and the media.

6. On 27 March, the Special Rapporteur wrote a letter to the Deputy Foreign Minister of Myanmar with an appeal to give serious consideration to renewed, visible and convincing human rights initiatives to undo the damage caused by the "microphone" incident and to redefine the cooperation of his Government with the Commission on Human Rights in a credible manner. Referring to his earlier calls and recommendations, the Special Rapporteur restated what those initiatives could

be: immediate and unconditional release of all political prisoners; refraining from new arbitrary arrests; lifting of remaining restrictions on freedoms of expression, information, movement, assembly and association; initiating the reform of the system of administration of justice and of the legislation criminalizing the exercise of the most fundamental rights; and reviewing a policy relating to the paddy quota system exacted by the Government from rice farmers. He expressed the hope that the authorities would give serious consideration to those initiatives and would also come forward with a full explanation about the "microphone" incident.

7. The Special Rapporteur presented his annual report, together with an oral update to the Commission on Human Rights, on 31 March. Both in Geneva on that occasion and later in New York and Washington D.C., the Special Rapporteur met with representatives of Myanmar and other Member States, non-governmental organizations and private individuals who shared their views and information on the situation of human rights in Myanmar.

8. In his reply to the Special Rapporteur dated 28 April, the Deputy Foreign Minister informed him about "a thorough inquiry" into the incident at Insein prison. A fuller account on the results of the inquiry was provided to the Special Rapporteur on 18 July by the Myanmar Ambassador in Geneva. The letter indicated that a Special Committee of Inquiry set up on 9 April had found that four working-level officials of Insein prison had installed a listening device on their own initiative, without the authorization and knowledge of higher authorities. Those officials had been subjected to disciplinary actions: (a) U Than Soe, Deputy Director, Officer-in-Charge of Insein prison, had been transferred to Mandalay prison and his probationary period for promotion extended to another six months; (b) U Maung Maung Gyi, Chief Warden, Officer-in-Charge of the main jail, had been reprimanded and his promotion suspended for six months; (c) U Ye Myint, Warden, Officer-in-Charge of the main entrance, had been reprimanded and transferred to Paungde prison; and (d) U Ne Win, Assistant Warden, Public Relations Officer, had been demoted and transferred to Pegu prison. Finally, the authorities also pledged to do their best to ensure that similar unfortunate incidents would not occur again and that the integrity of the Special Rapporteur and his freedom of contact would be strictly respected.

III. Human rights-related developments

9. The Special Rapporteur is of the view that there can be no real improvement in the human rights situation in Myanmar without genuine progress towards national reconciliation. During his March visit to the country, he noted the lack of further progress in the process of dialogue, despite the considerable optimism of the international community following the lifting of restrictions on Daw Aung San Suu Kyi's movement on 6 May 2002. Moreover, he also detected some worrying signs of erosion of confidence between the Government and the NLD as both sides were giving signs of reciprocal distrust.

10. The Special Rapporteur noted the urgency of addressing the evolving situation in the meetings he had both during and after his visit. However, the deadlock symptoms with regard to the dialogue and escalating political tensions contributed to setting the scene for the tragic events of the night of 30 May, followed by a significant deterioration of the human rights situation. On that day, NLD members

and supporters accompanying NLD General Secretary Daw Aung San Suu Kyi were attacked by pro-Government protesters near Depayin (Sagaing Division). As a result, more than 100 NLD members and supporters, among them elected members of Parliament, monks and students, were arrested, killed, wounded and missing. Among the confirmed detentions were the NLD General Secretary, NLD Deputy Chairman U Tin Oo and other NLD leaders, who were reported to have been taken into "protective custody" for their own safety. The incident occurred during Daw Aung San Suu Kyi's tour of Kachin State and Sagaing Division (her eighth trip around the country since May 2002), which started on 6 May 2003 and was expected to end on 4 June.

11. The Special Rapporteur joined his voice with the wide international condemnation of SPDC. On 2 June, he issued a public statement with the Office of the United Nations High Commissioner for Human Rights and sent an urgent appeal to the Myanmar Government jointly with the Chairperson of the Working Group on Arbitrary Detention and the Special Rapporteur on the right to freedom of opinion and expression.

12. In reply to this urgent appeal, the Myanmar Ambassador in Geneva communicated on 27 June the results of an official inquest into the 30 May incident. Authorities claimed that NLD had incited the incident by breaching an agreement between the Government and NLD that the latter should not engage itself in any activity that could disrupt the existing peace and stability in the country. Members and supporters of NLD, joined by some monks, were said to have become lawless and had resorted to acts of violence, such as blocking public roads with disregard for traffic rules, using Buddhist monasteries for carrying out political activities and persuading people to come out into the streets in crowds and creating unrest. In the view of the authorities, such acts were "a far cry from the norms of democratic practices" and were "indeed acts of lawlessness, license and indiscipline", which gave rise to clashes between NLD and the local populace. The Government further claimed that, just as there were people in favour of Daw Aung San Suu Kyi, there were also many people hurt by the absence of international assistance and investment who strongly resented her support for economic sanctions against the country. In his discussions with the Special Envoy of the Secretary-General and others, the Special Rapporteur also learned that the Government believed that a plot, involving members of the Communist Party of Burma, certain ethnic nationality groups, members of NLD and foreign instigators, designed to undermine the stability and the security of the State was under way in Myanmar. Accordingly, the Government argued that it had been compelled to take certain temporary measures in order to ensure the safety of the General Secretary and some of the other NLD leaders. Finally, the Special Rapporteur was informed that four persons had died and 48 had been wounded in the incident, but he received assurances that the NLD General Secretary and Deputy Chairman had been unhurt.

13. Information from various sources received thus far by the Special Rapporteur seems to indicate an element of premeditation on the part of pro-Government protesters and part of a general pattern of growing harassment of NLD supporters, particularly during Daw Aung San Suu Kyi's countryside trips. As she had been received by large crowds, signs of renewed harassment and intimidation of NLD supporters had been becoming bolder, mainly on the part of the Union Solidarity and Development Association (USDA), a pro-Government mass organization. Thus, during her earlier trips to Rakhine State (16-24 December 2002) and to Chin State

(3-13 April 2003), pamphlets denouncing and demeaning her and NLD had been reportedly distributed in various other localities, including Sagaing, Mandalay, Bago and Tanintharyi Divisions and Kayin State. The use of batons and fire engine hoses by the police, fire brigades and USDA members to disperse NLD supporters had been reported in December. Those activities appeared to be in reaction to the SPDC concern about the NLD General Secretary's ·urn to an allegedly "confrontational posture", which was how NLD statements on Union Day and the Independence Day had been interpreted by SPDC. The reactivation of the Committee for the Representation of the People's Parliament would have been seen as provocative as well.

14. During Daw Aung San Suu Kyi's last trip prior to 30 May there had been several instances involving groups of USDA activists armed with knives obstructing vehicles of NLD leaders and a few cases of injuries of NLD members. Reports from unofficial sources suggest that there might have even been some form of military training provided for USDA members. According to testimonies of eyewitnesses, on 30 May, NLD members and supporters had been reportedly attacked by individuals believed to be USDA members with batons, clubs and iron bars. Unofficial reports suggest that at least eight persons are believed to be dead. Reportedly, a monk and two students were also killed on 31 May during clashes while protesting the previous day's incident.

15. In his letter to the Government on 1 July, the Special Rapporteur reiterated his grave concern about the alleged death, bodily harm, detention and disappearance of scores of individuals, including elected members of Parliament, in connection with the 30 May events. An annex to the letter listed the names of victims, including 51 persons held in various detention facilities, 6 elected members of Parliament under house arrest, 104 believed to have disappeared (among them 10 elected members of Parliament) and 8 reportedly dead. The Special Rapporteur urged the Government to clarify the cases in the most urgent and effective way and to release immediately all political prisoners. He also requested permission to visit Myanmar as soon as possible, with a view to assessing the situation first-hand. He made his request with the full support of the High Commissioner and his Deputy, (currently the Acting High Commissioner), both of whom had been following the situation in Myanmar with great concern. In his meeting with the Myanmar Ambassador in Geneva on 2 and 28 July, the Special Rapporteur repeated his request for an urgent visit. At the time of writing, the request remained to be officially answered.

16. The Special Rapporteur believes that, to date, there remain over 100 persons allegedly still missing or in detention in connection with the 30 May events. Many reportedly suffered injuries and have had no access to relatives or lawyers. With regard to reports of possible injuries suffered by the NLD General Secretary, during his last mission to Myanmar, the Special Envoy of the Secretary-General had brief access to her on 10 June in the presence of a military intelligence officer in an undisclosed location and, as far as he could see, she did not seem to have been injured. The International Committee of the Red Cross (ICRC) officials who also met with her on 28 July said that she was well and unhurt. According to ICRC which, since the end of June, had had access to some 30 newly detained persons, the NLD Deputy Chairman was also unhurt.

17. The Special Rapporteur echoes here the Secretary-General who, in his statement of 23 June, stated that the conditions under which Daw Aung San Suu Kyi

was being held, that is, incommunicado and without charge, is truly deplorable. The Secretary-General was informed through his Special Envoy that Ms. _____was being held under section 10-A of the 1975 State Protection Law designed to "safeguard the State against the dangers of subversive elements". Her detention under section 10-A contradicts the SPDC statement that she is being held for her own safety. Under this law, anyone perceived to be a threat to State security can be detained without charge, trial or judicial appeal for up to five years. The Special Rapporteur, still gravely concerned about the continued detention of Daw Aung San Suu Kyi under such conditions, joins the appeal of the Secretary-General to SPDC to release her immediately and unconditionally and underlines its responsibility for her protection and safety. The Special Rapporteur also repeats his earlier calls for the release without delay of all other political prisoners.

18. A series of these new detentions took place against the backdrop of continuing arrests and imprisonment of NLD members and other political activists during the first five months of 2003. In January two nuns were arrested after staging a peaceful protest in front of the Yangon City Hall. In February, the following 12 political activists were arrested: Sai Nyunt Lwin, Secretary of Shan NLD; Thaung Kyi, North Okkalapa NLD; Thet Htwe, aka Nyein Lu; Thin Thin Oo; Ma Than Htay; Khin Win, Vice-Chairman of Kamayut NLD; Maung Maung Aye; Maung Maung Myint; Tun Yin, Dallah NLD; Tin San, Joint Secretary, Thanlyin NLD; Khin Soe, Kunyangon NLD; and Phoe Aye. To the Special Rapporteur's knowledge, the last seven of them received thereafter sentences ranging from five years to life imprisonment for their alleged involvement in anti-Government activities, including planting bombs, holding demonstrations and distributing leaflets.

19. In May, a group of NLD members was arrested in Sagaing Division for engaging in peaceful opposition political party activities: Ko Win Nyunt, Ko Bo Htay, Ko Kyaw Tin, Ko Tin Maung, Ko San Aung, Ko Than Min, U Win Maung, Treasurer; U Tin Hlaing, all from Min Swe Hnit and Pyan Kyah villages, and U Win Myint Aung, an MP-elect for Tabayin 2. The last three of them were reported to have each been sentenced to two years' imprisonment on 22 May in Monywa, in what appears to have been a summary trial just three days after their detention. It remains to be ascertained whether they had access to legal counsel, medical care or their families during their detention.

20. Arrests of NLD politicians continued to be reported during the month of July (more than four weeks after the 30 May incident). On 5 July, Than Tun, Kyaw Kyaw Lwin, Aung Than, Kyaw Kyaw, U Hnout Khan Hmwe and Win Naing were reportedly arrested for distributing leaflets related to the above-mentioned incident. U Khin Win, U Maung Maung, Ko Than Aung, three NLD organizers and Ko Aung Thein Myint, a NLD youth member from Magway Division, were also reportedly arrested on 6 and 8 July, in connection with a petition that had been written to SPDC requesting the release of NLD fellow members and supporters. In an urgent appeal to the Government dated 18 July, the Special Rapporteur raised these cases jointly with the Special Rapporteur on the question of torture and the Chairman of the Working Group on Arbitrary Detention.

21. There have been some releases of political prisoners during the reporting period, but not at the pace of last year. During his last meeting with the Myanmar Home Minister in March 2003, the Special Rapporteur was informed that the SPDC count as of 20 March 2003 was 515 during 2000-2003 (12 in 2000, 105 in 2001, 335

in 2002 and 63 since the beginning of 2003). The release of the largest batch of prisoners (115) announced on 21 November 2002 had been confirmed and a full list of persons released since the Special Rapporteur's visit in October 2002 was provided. Compared with the same period last year, the pace of releases had markedly decreased (with only 1 reported release in January, 14 in February and 48 in March, of which only 9 appeared to have been political prisoners). All 515 releases had been made under the provisions of section 401 (1) of the Myanmar Code of Criminal Procedure, which conditioned the release on the prisoners' pledge not to undertake any activity detrimental to public order, despite the fact that many of those released had almost completed their sentences. At that time, five political prisoners were known to have refused the offer of such a conditional release. According to the Home Minister, there remained only 101 detainees (94 male and 7 female) who were members of political parties. Of those, 90 were said to be NLD members and the remainder were from six other political groups (named in government records as the Democratic Party for a New Society, the Student's Union, the Worker's Union, the National League, the National Democratic Organization and the Mon National Democratic Organization). At that time, the Special Rapporteur's estimate of remaining political prisoners was between 1,200 and 1,300.

22. According to publicly available reports, the releases in the past few months have included a number of prominent cases regarding which the Special Rapporteur had made representations to the Government: Shwe Saw Oo, Thar Tun Aung, and Khin Maung Gyi, Arakan League for Democracy members in April; 21 prisoners in May, among them U Sai Nyunt Lwin, Shan NLD leader, and Dr. Salai Tun Than. With regard to persons detained as a result of the 30 May events, the Special Rapporteur was informed by the Myanmar Mission in Geneva that, altogether, 96 persons had been freed thus far.

23. Other recent negative human rights-related developments included the closure of most (perhaps even all) NLD offices, among them its headquarters in Yangon; increased surveillance of members and supporters of NLD and other political organizations; tighter control of the press, with no free access to information, including news about the 30 May incident; and reportedly frequent summoning and threatening of former political prisoners by the military intelligence.

24. These are most regrettable developments, as they effectively not only cut off the limited political freedom that NLD had been allowed since Daw Aung San Suu Kyi's release in May 2002, but also envelope the country in the atmosphere of fear and repression. The Special Rapporteur presumes that activities of other political parties, which seem to have benefited somewhat from the temporary easiness in the political climate during the process of dialogue, will also be affected. Thus, according to news reports, the Shan NLD, which ranked the second in the 1990 elections in Myanmar, was able to hold a meeting of its Central Executive Committee in March in Yangon. Whether similar activities could be undertaken now remains to be seen.

25. Overall, the 30 May-related developments have constituted a potentially terminal setback on the political front and, for that matter, for the human rights situation in the country: it could be argued that the 30 May incident has undone in one stroke all the progress that had been achieved since the process of dialogue began in 2000. Related to this, there has been wide international concern about the prevailing situation and the acute realization of the need to do something to effect a

change in this country. A number of international bodies and Member States are assessing the scale and scope of their cooperation with the Myanmar Government. Of particular importance, Myanmar's friends and neighbours in the Association of South-East Asian Nations collectively called for the release of Daw Aung San Suu Kyi during their annual Foreign Ministers meeting in June.

26. The economic and humanitarian situation remains precarious. Massive inflation has pervaded the country as prices for commodities affecting the basic livelihood of people had jumped. Since the beginning of the year, public transportation fares (for airplanes, trains and buses) and telephone rates are reported to have increased at least three times. Late-year floods have also reportedly contributed to the increase in consumer prices for rice and other edible goods. No official announcement was made on the price hikes, nor have there been any reports on a pay adjustment for civil servants. As people have sought ways and means to cope with inflation, many have reportedly lost a substantial amount of their savings by investing in private companies lured by promises of high interest. These so-called "investment companies" have collapsed, taking with them the savings of local residents. As the Government has lost its credibility, owing to its track record, its attempts to restore confidence through any announcements are met with scepticism and further panic, exacerbated by a shortage of money and rumours of demonetization. This, in turn, has prompted a crisis of confidence in the private banking system, leading to a paralysis of the economy with significant consequences for the future prosperity of the country. Many businesses have suffered as a result. All of this throws into doubt the ability of the economy to generate the capital essential for the successful implementation of the new and to be welcomed liberalized market in paddy and rice.

IV. Proposed independent assessment of allegations of human rights violations in ethnic areas of Myanmar

A. Follow-up process

27. During the reporting period, the Special Rapporteur continued to pursue his efforts to obtain access to ethnic minority areas to investigate allegations of serious human rights violations (on earlier efforts, see E/CN.4/2003/41, paras. 35-46).

28. In response to his communications sent to the Myanmar authorities in November and December 2002, the Special Rapporteur received, on 22 January 2003, informal suggestions from the Myanmar Mission in Geneva regarding the possibility of the proposed independent assessment. It was suggested that the assessment be combined with his regular mission, that his team not comprise more than five experts and that he be present in the country throughout the whole duration of the assessment mission, which could be up to three weeks.

29. In his letter of 24 January, the Special Rapporteur advised the Myanmar Ambassador in Geneva that, owing to time constraints, in view of his other commitments, as well as operational considerations involving the need to agree on the detailed terms of reference for the mission, secure funding and logistics, and to identify and recruit the experts and interpreters, he would be unable to undertake a combined mission at such short notice in March 2003. The Special Rapporteur indicated that the most appropriate option would be to take the advantage of his visit

before the next General Assembly in October-November 2003. He could then go with a team of five experts and would travel to ethnic areas, including Shan State, to make an independent assessment of the allegations. In view of the complexities involved in combining a general human rights assessment and the verification of specific allegations, his expert advice was that the process would take from three to five weeks. He would have preferred to carry out the proposed investigation earlier (in the summer when he is available), but the rainy season would not permit it until October.

30. In his letter of 20 February to the Special Rapporteur, the Myanmar Ambassador informed him that during his forthcoming visit to Myanmar in March (19 to 26), the Special Rapporteur would get an opportunity to pursue discussions on his proposal for the October visit and the independent assessment.

31. At a meeting on 21 March, the SPDC Secretary-1 invited the Special Rapporteur and his team to visit Shan State to collect information and to study the situation first-hand and pledged his support. He clarified that the exercise should be considered as an assessment with a purpose to establish the truth and not a criminal investigation. He acknowledged that in some cases allegations had been found to be true and that action had been taken against perpetrators. He invited the Special Rapporteur to work out the practical modalities of the exercise with Brigadier General Than Tun (Head of Department, Office of Military Intelligence), who was also present at the meeting.

32. The Special Rapporteur expressed his appreciation to the Secretary-1 and also welcomed the progress with regard to another related proposal that he made to SPDC, which was to consider allowing an adequate presence of ICRC in all conflict areas of the country, so that it could assess the humanitarian situation on an ongoing basis, report confidentially to the authorities and work out with them appropriate measures to ensure the security and protection of the civilian population wherever needed. Since last November, ICRC had been allowed to extend its presence in sensitive areas in Shan State and started visiting areas of concern. However, the Special Rapporteur is concerned with the reports alleging that SPDC had swept the areas before and after the ICRC visit in Shan State.

33. In view of the interruption of his last visit, the Special Rapporteur had follow-up discussions on the modalities for the assessment mission with the Myanmar Ambassador in Geneva during the fifty-ninth session of the Commission on Human Rights. On 16 April, the Special Rapporteur submitted the draft modalities of the assessment both to the Myanmar Ambassador and directly to the Deputy Foreign Minister (see annex II).

34. On 5 May, the Special Rapporteur wrote to the Deputy Foreign Minister seeking an early feedback on the proposed modalities. On 8 May, the Myanmar Ambassador suggested to the Special Rapporteur that he go ahead with preparations for the assessment mission, "while working out the details with the Deputy Foreign Minister". While beginning preparatory work for the mission, the Special Rapporteur sent another letter to the Deputy Foreign Minister on 28 May, reiterating his request for feedback.

35. Following the very worrying developments in Myanmar after 30 May, the Special Rapporteur had consultations regarding the appropriateness and feasibility of the Shan assessment with key interlocutors during his stay in Geneva from 16 to

30 June, including the Secretary-General's Special Envoy for Myanmar, the High Commissioner for Human Rights and his Deputy, currently the Acting High Commissioner, and some representatives of Member States and civil society. These discussions resonated with the Special Rapporteur's view on the importance of pursuing his efforts for the Shan assessment.

36. In his letter to the Deputy Foreign Minister on 1 July, the Special Rapporteur made yet another attempt to obtain the agreement on the modalities. Regretting the delay, he made it clear that he would make public the findings of his research on the situation of human rights in ethnic areas of Myanmar conducted in Thailand in October and November 2002, should his efforts to carry out the assessment inside Myanmar prove to be unsuccessful. At the time of writing, a reply from the Government was still outstanding.

B. Research on the human rights situation in ethnic areas of Myanmar

37. While acknowledging that there are many outside Myanmar who disagree, the Special Rapporteur believes that the credibility of his findings relating to allegations of human rights violations in ethnic areas of Myanmar depends on his ability to establish facts in an objective and impartial manner. Consequently, the Special Rapporteur has followed a two-pronged approach in his investigations: (a) conducting research based on independent interviews of refugees from these areas in Thailand and (b) making an independent assessment inside Myanmar by visiting some of these affected areas with a view to corroborating the results of his research and establishing facts about the alleged violations. While (a) was completed, (b) has not yet taken place.

38. The Special Rapporteur and his team travelled to Thailand, including visits to border areas, following his missions to Myanmar in October 2001 and 2002. Furthermore, he commissioned research in Thailand from 10 October until 15 November, 2002. Its purpose was twofold: to gather directly first-hand testimonies from victims of, and witnesses to, human rights violations, and other persons who may have direct knowledge of circumstances or context of those violations, and to analyse the primary information thus collected by his team, with a view to providing a solid background with a focus on Shans, Kayins, Kayahs and Mons.

39. The exercise was not intended to duplicate the investigation carried out by other human rights groups or organizations. Rather, it was to enable the Special Rapporteur to assess their information, build up his own knowledge and understanding of the prevailing situation in those areas and to contribute to the preparation of his independent assessment on Myanmar.

40. The methodology of the research consisted in visiting areas in Thailand along the border with Myanmar to identify potential sources of information and to interview them thoroughly, separately and confidentially. Altogether, 118 interviews were conducted with recent victims of, or witnesses to, human rights violations in Myanmar (52 Shans, 44 Kayins, 13 Kayahs and 9 Mons, of which 70 were men and 48 women). Most of the interviewees were subsistence farmers and members of their families who had fled to Thailand. In addition, a large number of individuals and organizations with direct knowledge of circumstances and context of these violations were consulted. These included sources working on human rights issues

or with refugees and internally displaced persons. International organizations working in refugee camps were also approached.

41. Special attention was paid to collecting information concerning the allegations of violence, including sexual violence, against Shan women. Therefore, meetings were held with the authors and researchers of the report entitled "License to Rape", published by the Shan Human Rights Foundation and the Shan Women's Action Network in May 2002. Furthermore, a number of interviews were organized with victims of, and witnesses to, rape incidents.

42. For recent arrivals from Shan State, three different locations were chosen: Pieng Luang, Fang, and Mae Fah Luang. New arrivals from Kayin State were also interviewed in three places: opposite Ler Per Hur in a small village, Mae La (near Mae Sod) and Nu Po (near Umphang) camps. Because of the heavy rain and bad road conditions, no interviews could be done in Mae Ra Ma Luang and Mae Khong Kha camps. Kayah recent arrivals were all interviewed in Kayah Refugee Camp 2 in Mae Hong Son province. All Mon interviews were conducted in Mahachai, an area south of Bangkok.

43. Interviews and related research activities were conducted according to United Nations methods and standards. During those interviews, no other persons were present in the room, apart from a witness, a translator and a researcher. In rape cases, a female counsellor was also present. Witnesses were selected in cooperation with the translator and local organizations. Selection criteria included that witnesses arrived in Thailand no more than one year ago, came from different geographical areas and suffered different abuses. Apart from that, instructions were also given to ensure a fair gender, ethnic and religious balance in selecting the candidates.

44. The research documented widespread human rights abuses such as forced labour, arbitrary taxation and extortion, forced relocations, torture, rape and extrajudicial executions. Most of the abuses were allegedly committed by the Tatmadaw (Myanmar army) in the context of counter-insurgency operations against the Karen National Union (KNU) in Kayin State and Tanintharyi Division, the Shan State Army South in Shan State, and the Karenni National Progressive Party in Kayah State. In Mon State, human rights violations decreased after the main Mon armed opposition group, the New Mon State Party (NMSP), signed a ceasefire agreement with the Government in 1995. However, small-scale fighting resumed after a number of break-away groups from the NMSP took up arms again.

45. Main findings of the research (which cover the period until 15 November 2002) indicate the following patterns of human rights violations (presented below in the form of a summary in view of space limitations):

Forced relocations

46. In 2001 and 2002, there were no more reports of massive relocations in Shan and Kayah States on the same scale as those during 1996-1998. The forced relocations documented mainly took place in the south-east of Shan State (by the Tatmadaw and the United Wa State Army (UWSA)) and in Kayin State (by the Tatmadaw, and in some cases by the Democratic Karen Buddhist Army (DKBA), a break-away group from KNU). There were no reports of new mass relocations in other parts of Shan or Kayah States, mainly because most areas where armed

opposition groups were active at that time had already been relocated in previous years.

47. The forced relocations in the south-east of Shan State by the SPDC and the UWSA forces were reportedly directly related to a relocation programme of the UWSA to move down hundreds of Wa villagers from Wa regions down to the Thai border. Shan, Lahu and Akha villagers were often simply told that their land was confiscated and that they had to leave their houses.

48. The forced relocations in Kayin State were part of a campaign by the Tatmadaw against KNU to cut the link between the population and KNU and thus deny them any form of support from the local community. People were told by the Tatmadaw units that they had to move to another village within a few days. Often they were threatened that they would be shot if they refused to leave. The deserted villages were mostly burned down. Villagers who were discovered hiding in the jungle after a relocation order had their possessions destroyed, including all their food, to deny them the possibility to survive there.

49. Some forced relocations reportedly took place in Mon State, where villagers were forced to move closer to a road, or closer to a village centre.

Confiscation of land and property

50. The confiscation of land and property was another recurrent abuse. It was alleged that often the Tatmadaw units entering villages would just take whatever they wanted. None of the persons interviewed declared having received any compensation for the loss of land or property. Confiscation of property often went hand in hand with forced relocations. Some people had left because they had felt intimidated by large numbers of Wa people moving into their areas.

51. The main reason for this practice by the Tatmadaw would seem to be to deny people the possibility to survive in areas where they thought armed opposition groups were active. A number of people who had been forcibly relocated earlier said that they had stayed in hiding in the jungle until the Tatmadaw was gone. After that, they had built new houses and were able to survive there for a while, but when the Tatmadaw returned and again destroyed their houses and food, they had had no choice but to leave. These abuses seem to be related to the fact that the Tatmadaw units in the field lacked logistical support from their command. This could have led to an increase in the confiscation of land and property of villagers.

Forced labour and portering

52. Almost all of the interviewed persons had had to do forced labour for the Tatmadaw in 2002. The only exceptions were internally displaced persons, who had been living in hiding and thus managed to avoid the Tatmadaw troops. Forced labour demands had been especially high in villages near the Tatmadaw bases, in relocation sites and in villages located near a road. None of the persons interviewed had received payment for their work. Most of them had had to come and work at military camps of the Tatmadaw. Villagers had had to cut wood and bamboo and bring this to the camp. There they had had to build and repair barracks, make fences, dig trenches around the camp and build bunkers. Often, they had also had to provide water and firewood to the military camps on a regular basis. Many of them had had to perform forced labour at least once a month for a period of one to five days.

53. Those who had served as porters testified that they had had to carry loads consisting of food and rations, cooking utensils and clothes, but also arms and ammunition. Most of them complained that the loads were too heavy and that they had been given insufficient food and had received no medical help for injuries. Many porters had been beaten and kicked by soldiers because they could not keep up with the rest. Porters included men and women, even pregnant women in one case, or old persons. Some of the interviewees could not even remember how many times they had had to do portering. Many had had to go once a month, varying from 1-2 days to 10-15 days. In some cases, they had done periods of 1-2 months. Many of them complained that because they had had to do portering so often they had not had enough time to work in their fields or make a living.

54. Most of those ex-porters had either been caught in their villages or in their fields and forced to go with the Tatmadaw soldiers. In other cases, porters had been organized by a village headman, who, in turn, had been ordered by the Tatmadaw soldiers to provide a certain number of porters. In some cases, people could avoid portering by paying a fee, but many of them were poor and could not afford the fee.

55. In some cases, the Tatmadaw used prison convicts as porters. In an operation in Kayah State, for instance, the Tatmadaw had used 75 prisoners as porters on a patrol towards the Thai border, of whom five had been beaten to death because they could not continue carrying heavy loads.

Torture, arbitrary detention and extrajudicial killings or executions

56. The research also revealed cases of torture and arbitrary detention. There are indications that, in some cases, these practices were used as a warning to other people to make them follow orders of the Tatmadaw. In most other cases, people were tortured because they were accused of being supporters of insurgent groups. To cite one example, a 50-year-old Kayin man from Kawkareik Township in Kayin State said that four Kayin villagers had been accused of being Karen National Union soldiers. All the villagers had been called to see how the four men had been tied up and tortured (hit on their heads, even when they were bleeding; suffocated with a plastic sheet) at a place outside the village. The man said that the villagers had come because the Tatmadaw soldiers had told them to come. After seven days of such treatment, the four men had been taken to the military camp and never seen again. The man thought they had been executed. He said that they were only simple villagers. The incident reportedly took place in May 2002 [case 108].

57. The research documented a large number of extrajudicial executions committed by Tatmadaw units in 2002. The majority of those cases involved internally displaced persons who had been shot after they had been discovered by Tatmadaw soldiers. The worst cases, involving groups of individuals, took place in Shan and Kayin States. Some of the interviewed persons had testified regarding killings in Shan State at the beginning of the mass relocation programme in 1996-1997.

Rape

58. All documented cases of rape had reportedly been committed by the Tatmadaw soldiers. In most cases, victims could not identify a name or rank of perpetrators, or their unit number. In some cases, victims knew where the perpetrators were based. Information about names, ranks and unit numbers was mostly compiled afterwards

with the help of other sources. Testimonies were received about 16 rape incidents, involving 25 women (19 Shan, 1 Akha, 1 Palaung and 4 Kayin women). Eight of these cases had taken place in 2002. In addition, one Shan girl testified that she had been forced to marry a Tatmadaw soldier. In seven cases (two of which had taken place in 2002), a source of information was a victim herself. In the remaining cases, the information came from friends or relatives. In some cases, people from another village had heard about the rape from the victims. There were eight cases in which a victim had been raped by more than one soldier.

59. In most of these cases, the victims had allegedly been captured by a group of Myanmar soldiers while they were working alone on their farms. In some cases, they had been caught, for instance, while taking a bath; in others, women had been caught in their own village when the Tatmadaw troops had arrived and all the men had run away. In two separate cases, a young girl had been raped at an army base. In one case, a girl had been taken while she was doing forced labour and, in another, a young girl had been arrested together with 12 other villagers, all men, who had later been killed.

Arbitrary taxation and extortion

60. Among the interviewed persons were those who had been subjected to arbitrary taxation by the Myanmar army. Reasons for levying taxes were various, for instance, for passage through fields outside their villages, for road repair, for a state school, for patrolling their villages, a porter tax, a "rice quota" (now abolished), etc. For example, a Mon man from Myaik Mayaw Township in Mon State said that he had had to pay different taxes. A porter tax was 150 kyats per month. He had had to pay taxes for road repairing which would range from 2,000 and 5,000 kyats on one occasion. He said that these abuses had been committed not only by Myanmar soldiers, but also by a village headman and his secretary — both Mon as well — who would collect money and sometimes even beat and kick the villagers. In 2002, the man had also had to pay a tax to NMSP [case 115].

Use of landmines

61. The research revealed that all parties to the conflict used landmines. Some persons testified regarding the use of landmines by the Tatmadaw, among others, to protect their camp. A number of interviewees gave testimonies about the use of landmines by armed opposition groups, mainly to protect their small bases along the Thai border.

Violations by other armed groups

62. The research showed evidence of human rights abuses committed by armed opposition groups. Apart from abuses perpetrated by groups with official or unofficial agreement with Myanmar authorities, such as UWSA and DKBA, other armed groups, such as KNU, KNPP, Shan State Army South and NMSP, had also been involved in abuses against the civilian population. The abuses had taken place on both sides of the border.

63. The Special Rapporteur is aware that the findings of this research are based only on primary information collected in Thailand. As he has repeatedly stated to SPDC, the need for an assessment inside Myanmar is evident for rigorous and precise evaluation of the responsibility for the alleged violations of human rights in

ethnic minority areas. The assessment would have permitted him to visit areas referred to in the research and to hear from local communities, military authorities and Government about the alleged violations. Regrettably, this has not been enabled by SPDC. The Special Rapporteur hopes that the proposed independent assessment, should it eventually take place, will help to establish the truth.

V. Concluding observations and recommendations

64. The Special Rapporteur's conclusions and recommendations given in earlier sections of the present report, as well as his previous reports (E/CN.4/2003/41 and E/CN.4/2002/45), remain valid in view of the prevailing situation in Myanmar.

65. As the Special Rapporteur noted during his speech at the last session of the Commission on Human Rights, there had been some positive steps in the area of confidence-building with the international community, such as a visit to Myanmar by Amnesty International, human rights cooperation with the Government of Australia, promises to facilitate the operational environment of international non-governmental organizations working in Myanmar, cooperation with the International Committee of the Red Cross and United Nations agencies, notably with the Office of the United Nations High Commissioner for Refugees in Rakhine State with regard to the Muslim population, with the Office on Drugs and Crime of the Secretariat on drugs, with the Joint United Nations Programme on HIV/AIDS (UNAIDS) on fighting HIV/AIDS. However, these initiatives are no substitute for real advancement on substantial human rights issues where, instead of progress, there has been a serious setback. Without an immediate and concrete commitment of the Government to suggest otherwise, the "home grown" national reconciliation process begun in 2000 is now arguably, dangerously damaged. Without genuine progress towards national reconciliation there can be no real improvement in the human rights situation in Myanmar.

66. The Special Rapporteur sadly concludes that the grave events of 30 May and thereafter cast a dark shadow on the political and human rights developments that had been taking place since his appointment to this mandate in December 2000. Of course, nothing in politics is definitive and life is continually moving ahead and changing. However, in his view, which is shared by the Special Envoy of the Secretary-General, the rupture of the process of dialogue with the National League for Democracy in such a violent way has spoilt all the progress achieved in confidence-building and has shattered people's hope for political transition. This is a most unfortunate development: as the Secretary-General noted in a 2 June 2003 statement,[1] the people of Myanmar are "overwhelmingly in favour of change" and deserve to experience the same economic, social and political benefits as the peoples in the rest of South-East Asia. This has also wasted all the efforts that had been put into encouragement and support for the process of national reconciliation by the international community, in particular the United Nations. The saddest yet perhaps most predictable consequence is that by keeping Daw Aung San Suu Kyi in detention, the State Peace and Development Council (SPDC) has completely paralysed the opposition movement that greatly depends on her leadership. It has effectively adjourned until an unforeseeable date the start of

the political transition to democracy that it had repeatedly promised to its people and to the international community. This posture has led to the freezing of diverse possibilities for cooperation with concerned States and international institutions, which had been ready to cooperate with Myanmar in the normalization of political and economic life. Thereby, SPDC has put at serious risk the process of addressing urgently the existing precarious humanitarian situation, with all potential ramifications for the exercise of all human rights.

67. **The Special Rapporteur is firmly convinced that if SPDC wishes to renew its commitment to the process of political transition, it must start by immediately and unconditionally releasing Daw Aung San Suu Kyi, together with others detained in connection with the 30 May incident, as well as all other remaining political prisoners. This is the order of the hour. Those responsible for the 30 May violence must be held accountable.**

68. **Daw Aung San Suu Kyi has made it clear that there will be no solution to the challenges which the Myanmar society faces without the participation of all sectors of society, including the Tatmadaw. The same is true for the National League for Democracy (NLD). There is no normalization of political life in the country nor any prospect of an effective political transition and democratization without its participation. The Special Rapporteur would like to stress that, by keeping Daw Aung San Suu Kyi prisoners and making accusations against her without any clear evidence, SPDC is hurting their necessary partnership in a future process of transition. The Special Rapporteur strongly recommends that SPDC return to dialogue with NLD and other political forces in the country, so that the Myanmar people can find solutions for the immense challenges ahead.**

69. **The Special Rapporteur hopes that SPDC will consider positively his request for an urgent visit to Myanmar to assess the post-30 May situation first-hand. If SPDC does not accept this request, or is unable to come forward with an accurate detailed explanation about the events, while at the same time releasing all political prisoners and reopening the dialogue, the Special Rapporteur will be ready to support a recommendation that the situation in Myanmar be brought to the attention of other instances in the United Nations. He is convinced that the continuation of the present stalemate is a serious obstacle to the improvement in human rights of all people in Myanmar. In his view, the current SPDC course of political repression and interruption of dialogue is not in its own interests and would surely further exacerbate the terrible suffering of the people of Myanmar, who have made clear their overwhelming desire for, and have thus far been denied the benefits of, positive change.**

Notes

[1] UNIC/PressRelease/87-2003.

Annex I

List of persons interviewed by the Special Rapporteur during his visit to Insein prison

1. Ma Than Thay
2. Ma San San Maw
3. Ma Aye Yi Htay (incomplete)
4. Dr. May Win Myint
5. Sai Nyunt Lwin
6. Thet Naung Soe (incomplete)
7. U Thu Wai
8. Salai Tun Than
9. U Toe Po
10. Saw Naing Naing (incomplete)

Annex II

Independent assessment of allegations of human rights violations in Shan State by the Special Rapporteur on the situation of human rights in Myanmar

Draft modalities

Purpose

1. The purpose of the assessment will be to establish the truth about allegations of human rights violations in Shan State of Myanmar. The assessment will be of a fact-finding nature.

Focus

2. The assessment will seek to verify allegations of human rights violations against the civilian populations in Shan State by the armed forces and armed opposition groups operating in these areas, including allegations of violence against women, and establish facts, or credible evidence, about possible violations, their nature, root causes, mechanisms of production and responsibilities.

Geographic and temporal scopes

3. The assessment will mainly focus on the eastern and central areas of Shan State from where most of the allegations have been originating. Precise locations will be determined during the assessment.

4. The assessment will cover the period from the beginning of the functions of the Special Rapporteur (January 2001) up to the present, taking into account past events which are relevant to the present contextual circumstances.

Duration

5. The assessment will be conducted over a period of four weeks inside Myanmar in November 2003.

Composition of the independent assessment team

6. The independent assessment team will comprise five researchers, one liaison or logistics officer, five interpreters and two secretaries. All team members will be identified and recruited by the Special Rapporteur on the basis of criteria of proven professional experience, competence, gender balance, independence, impartiality, integrity and discretion.

7. A liaison or logistics officer will liaise with authorities, Office of the United Nations High Commissioner for Human Rights headquarters and resident United Nations colleagues, as necessary, and deal with logistical aspects of the mission.

Methodology and modus operandi

8. The team will be guided by, and strictly adhere to, the principles of fairness, independence, impartiality and objectivity. The proceedings will be guided by United Nations methodological standards applicable to international fact-finding

activities, inter alia, the standard terms of reference for fact-finding missions by special rapporteur/representatives of the Commission on Human Rights (see E/CN.4/1998/45). Accordingly, the team members will be provided with full and unhindered access to all places relevant to the assessment. This may include villages, military camps and local detention facilities in these camps or outside them. Similarly, they will be granted free and unhindered access to all persons they wish to interview. It will also meet military officials concerned in the region.

9. The independent assessment team will be based in the most convenient localities in order to facilitate travelling and coordination. The precise locations will be determined at a later stage. From there the teams will be deployed in various localities relevant to their work.

10. Team members will be prepared to travel extensively by four-wheel drive vehicles wherever usable car tracts or roads exist, and sometimes by foot, to reach remote areas. They will be prepared to spend nights in villages where lodging and bathing facilities and food and water access may be rudimentary.

11. To ensure full independence and mobility of the team, especially given the landscape of areas to be covered by the assessment, travel by air will be necessary, for which arrangements will have to be made for hiring an aircraft (a small aircraft with few seats (similar to one hired by the high-level team of the International Labour Organization) or a helicopter, with preference for the latter, given its greater mobility).

12. Wherever such air travel may be necessary, the team will give prior notice to the local authorities. Other destinations requiring road travel or walking will be arranged locally and will not require prior notice, except if motivated by reasonable security concerns.

13. Prior briefings of local officials or villagers, intimidation to deter them from cooperating with the team, production of fake witnesses or testimonies, or other forms of negative intervention should be avoided.

Confidentiality

14. Strict respect for the confidentiality of the proceedings and the information collected will be a key element of the success of the assessment. It will be equally binding on the team and the Myanmar authorities. Interviews with all sources of information will be confidential, with no one else present during the interviews, other than the relevant members of the team. The identification and selection of the persons to be interviewed will be the exclusive prerogative of the Special Rapporteur, who will also decide the modalities of the interviews.

15. Any hindrance and interference in the proceedings for the purpose of preventing the independent assessment team from accessing locations or sources of information relevant to its work, or aimed at preventing, deterring or discouraging persons from cooperating with the assessment, or that breaches confidentiality, will result in the immediate interruption of the assessment, the lodging of an official complaint with the Government, and possibly, the cancellation of the mission.

16. Following the assessment and the submission of its findings to the Government and the Commission on Human Rights, the Special Rapporteur will undertake a post-assessment mission to return to the locations where the assessment was carried

out to verify that all the persons who cooperated with the assessment are safe and were not subsequently subjected to harassment, intimidation or reprisals. This post-assessment is part of the witness protection methodology developed by the United Nations in the context of fact-finding missions and may coincide with the Special Rapporteur's next mission in February 2004.

Reporting

17. Internal: the independent assessment team will be answerable and report only to the Special Rapporteur. IAT members will not share their findings with outside parties nor will they be authorized to speak to the media. Their devoir de reserve vis-à-vis the sources and the information they collect during their work will continue after the completion of the assessment. The Special Rapporteur is the only spokesperson of the assessment.

18. To the Government: upon completion of the assessment, the Special Rapporteur will prepare a report describing his findings and proposing recommendations that may be considered for addressing issues relating to human rights protection in Shan State. The draft report will be submitted to the Government for comments. As with his other reports, the Special Rapporteur will be the sole author of this report and will take full responsibility for its contents.

19. To the Commission on Human Rights: the Special Rapporteur will decide when and how the report will be submitted to the Commission on Human Rights.

Security arrangements

20. It is the responsibility of the host Government to ensure the protection of the independent assessment team and its proceedings. A security briefing will be held with relevant Myanmar authorities at the outset of the mission. Security concerns should not be unnecessarily abusively invoked to restrain the freedom of movement and research of the team. While security conditions must be taken into account, they should be balanced against the requirements of the mission. The liaison/logistics officer will assess security conditions in close cooperation with local military and other authorities.

21. The assessment will be conducted in the same spirit of openness, dialogue, cooperation and transparency that has characterized the missions of the Special Rapporteur in Myanmar.